As I find that nobody has taken objection I grant leave to move the motion. It will be taken up for discussion at 4 p.m. tomorrow.

ശ്രീ. സി. വി. ഇയ്യു: ബഹുമാനപ്പെട്ട മന്ത്രി കൊച്ചി ഡിവിഷനിൽ വല്ല സ്തൈക്കുകളും ഉണ്ടായിട്ടുണ്ടോ എന്നും അതു് ഏതെല്ലാം ഹൈസ്കൂളുകളിലാണെന്നും മറ്റും ഉള്ള വിവരങ്ങൾകൂടി അന്വേഷിച്ചു് അതു നാളെ അറിയിച്ചാൽ കൊള്ളാം.

Sri. Ittiera Ambooken: Sir, I have given notice of an adjournment motion today.

Mr. Speaker: That has been looked into.

LEGISLATIVE BUSINESS

The Travancore Cochin Government Land Assignment Bill—*(contd.)*

Clause 4

Mr. Speaker: We are at clause 4, amendment No. 20. Mr. T. Kochukrishna Pillai, is the member moving that amendment.

Sri. T. Kochukrishna Pillai: Yes, Sir. I move the following amendment:

"In clause 4, sub-clause (1), line 5, delete "call upon those who have got any claim to such land to prefer to him their" and insert 'receive'."

Sir, the clause as it is, appears to me to be imposing a restriction on persons who have to put in grievances of a real kind. It imposes a qualification on persons who are entitled to advance grievances and my amendment is calculated to widen the scope of such grievances to be considered. Sir, we know the grievances of the agriculturists in the State especially in the south. The other day an irrigation tank in the Agastiswaram taluk was assigned to a person, and he with the help of the police and in the teeth of the plaintiff pleadings of the peasants cut open the tank in order to drain away—the water of the tank. The men appear to have no specific rights over the silted up portions of the tank. At the same time I must say that I am not unaware of the timely stay order of the Land Revenue Minister in favour of the peasants.

Mr. Speaker: In order to make the amendment sufficiently clear, will the Hon'ble member read the section as amended? Does the member want to retain the word 'their' before the word 'objections' in line 7?

Sri. T. Kochukrishna Pillai: No, Sir. As amended the clause reads thus, 'when any Government land is proposed to be assigned the Tahsildar of the Taluk in which the land is situated or any officer empowered by the Government in this behalf shall notify in the prescribed manner that such land will by public auction or otherwise be assigned and receive objections if any in writing within a time to be fixed by such notification. 'So my amendment is to widen the scope of putting in complaints to the necessary authorities for the rectification of such unjustifiable assignments. The other day when the peasants raised objections they were not at all cared for. Dogs Barked, but the caravan went on, on to perdition and now the crops perish. My amendment is calculated to enable peasants to get their grievances advanced and remedied in time.

ധനകാര്യവും റവന്യൂവും വകുപ്പുമന്ത്രി (ശ്രീ. എ. ജെ. ജോൺ): ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നു. ഈ ക്ലാസിൽ പറഞ്ഞിരിക്കുന്നതു് ഭൂമി പതിച്ചുകൊടുക്കുകയോ പാട്ടത്തിനു് കൊടുക്കുകയോ ചെയ്യുന്നതിനു് മുമ്പു തഹസീൽദാർ മറ്റു പരസ്യം ചെയ്യണമെന്നും, അങ്ങിനെ കൊടുക്കുന്ന ഭൂമിക

LIBRARY ARCHIVES Kerala Legislative Assembly

[Sri A. J. John]

ളിൽ ഏതെങ്കിലും വിധത്തിലുള്ള അവകാശമുള്ളവരുടെ ആക്ഷേപം സ്വീകരിക്കപ്പെടണമെന്നുമാണു്. ഈ ഭേദഗതി സ്വീകരിക്കുകയാണെങ്കിൽ ആ ഭൂമിയിൽ യാതൊരു അവകാശവുമില്ലാത്തവരായാലും ശരി അവരുടെയെല്ലാം ആക്ഷേപങ്ങളും സ്വീകരിക്കേണ്ടതായി വരും.

Sri. T. Kochukrishna Pillai: That is my view. Expert opinion may be taken.

ശ്രീ. എ. ജെ. ജോൺ: അതു് സാദ്ധ്യമായ സംഗതിയല്ല. ഇതിൽ പറഞ്ഞിരിക്കുന്നതു്.....

"When any Government land is proposed to be assigned, the Tahsildar of the Taluk in which the land is situated or any officer empowered by the Government in this behalf shall notify in the prescribed manner that such land will, by public auction or otherwise, be assigned, and call upon those who have got any claim to such land to prefer to him their objections, if any, in writing, within a time to be fixed by such Notification."

അതായതു് ഈ ഭൂമിയിൽ ഏതെങ്കിലും വിധത്തിലുള്ള അവകാശമുണ്ടെങ്കിൽ അവർക്കെല്ലാം ആക്ഷേപം കൊടുക്കുന്നതിനു പ്രയാസമുണ്ടായിരിക്കുന്നതല്ല. അതൊന്നുമല്ലാതെ ഇവിടെയുള്ള ഒരു ഭൂമിയെ സംബന്ധിച്ചു വടക്കൻ പറവൂരിലുള്ള ഒരാൾ വന്നു കൊടുക്കുകയാണെങ്കിൽ അതും അന്വേഷിച്ചു റിപ്പോർട്ടു ചെയ്യുവാൻ സാദ്ധ്യമല്ല. അതുകൊണ്ടു് ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നു.

ശ്രീ. ടി. കൊച്ചുകൃഷ്ണപിള്ള: നീർത്തടമടിയുന്ന സ്ഥലത്തിൽ കൃഷിക്കാർക്കു് വല്ല അവകാശവുമുണ്ടോ? Is there any right recognised by the Government in respect of the agriculturists over the silt portion of the tank?

ശ്രീ. എ. ജെ. ജോൺ: അങ്ങിനെ ടാങ്കിന്റെ പരിധിയിൽപ്പെട്ട ഒരു ഭാഗമാണെങ്കിൽ അതു പതിച്ചുകൊടുക്കുന്നതിനെപ്പറ്റി ആക്ഷേപം കൊടുക്കാവുന്നതാണു്.

Sri. T. Kochukrishna Pillai: I withdraw the amendment.

The amendment was by leave withdrawn

Sri. K. P. Nilakanta Pillai: I move the following amendment:

"In clause 4, sub clause (1), line 7, substitute 'month after the date of the notification' for the words 'time to be fixed by such notification".

Sir, there is no difficulty in understanding that amendment. I do not want to elaborate any argument on that; then difficulty may arise. According to the clause as it is, it is left to the authorities concerned to fix the time within which these objections have to be filed. The purpose of my amendment is to compel the authorities, whatever that authority may be, to give at least a month's time, so that objections may be put in. If it is left to the Collector or Tahsildar and Proverthicar, sufficient notice may not be given. They may give only a week's notice or only 24 hours' notice. All that is recognised by the clause as it is. I want that at least a month's notice should be given. That is the purpose of the amendment.

ശ്രീ. എ. ജെ. ജോൺ: ഈ ഭേദഗതിയുടെ ആവശ്യമില്ല. ഇതിനെസംബന്ധിച്ചുതന്നെ ഇപ്പോൾ നിലവിലുള്ള ഒരു പ്രത്യേക വ്യവസ്ഥയുണ്ടു്. ഒരു മാസംതന്നെയാണു് രൂളിൽ വ്യവസ്ഥചെയ്തിരിക്കുന്നതു്. ലാൻഡ് അസൈയിൻമെന്റ് റൂൾ ഫോമിൽ പറഞ്ഞിരിക്കുന്നതു്.

LIBRARY ARCHIVES Kerala Legislative Assembly

"10. The Tahsildar shall, soon after his inspection of the land under Rule 9, publish a notice in Form C. uuder his signature calling upon all persons who may have any objection to the assignment of the land or who may have any claims to the land to appear before him within 30 days of the publication of the notice and perfer their objections or claims if any. The notice shall be published by affixing copies in a prominent part in the Taluk and Village Offices."

ഇങ്ങനെ 30 ദിവസത്തിനകം ആക്ഷേപം കൊടുക്കത്തക്ക വ്യവസ്ഥ രൂളിൽതന്നെ വച്ചിട്ടുണ്ട്. ആ സ്ഥിതിക്ക് ഈ ഭേദഗതി സ്വീകരിക്കേണ്ടയാവശ്യംതന്നെയില്ല.

Sri. K. P. Nilakanta Pillai: May I submit, Sir, that when we table amendments it is open to the learned mover of the Bill to attack them on the ground they are indefinite, etc! He wants to oppose the amendment on the ground that in the existing rule, he may provide an authority, and therefore he contemplates that such a thing would come into existence hereafter, and that in the existing rule there is such a provision and hence, we may adopt that. Therefore, he says this amendment is not necessary. Is it an argument? Under the rules, this may or may not come, and this House is asked to vote upon a thing which may or may not happen. It is a very convincing argument! Of course I am prepared to vote, because the argument is very convincing! There is absolutely no defect! I therefore want to point out that if it is argued, when we move an amendment, that that amendment is indefinite with reference to the provisions of this Act, that it is unhappily worded, defectively worded, etc., it does not appear fair. If the rules require one month's time, and if it is proposed by the learned mover of the Bill that he is going to adopt it, in the rules to be framed hereafter, what is the objection in accepting the amendment, I ask, Sir.

ശ്രീ. എ. ജെ. ജോൺ: സർ, ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നത് അതു ശ്രീമാൻ കെ. പി. നീലകണ്ഠപ്പിള്ള അവതരിപ്പിച്ചതുകൊണ്ടല്ല. ഇപ്പോൾ അതിനു വ്യവസ്ഥയുണ്ടെന്നും പുതിയ രൂൾ ഉണ്ടാകുന്നതുവരെ ഇതു നിലവിൽ ഇരിക്കുമെന്നും ഞാൻ ഇന്നലെ പറയുകയുണ്ടായി. ഇതു അദ്ദേഹം ഭേദഗതി അവതരിപ്പിച്ചതുകൊണ്ട് indefinite എന്നു പറഞ്ഞു oppose ചെയ്യുതല്ല.

The amendment was put and lost.

Sri. K. P. Nilakanta Pillai: I move the next amendment that "In clause 4, Sub clause (2), line 1, delete the words 'fixed in the notification.' The purpose of this amendment is that even though the period that would be fixed under the rules passed under this Act may elapse if some sufficient reason could be shown the authority must be enabled to waive that period fixed. That is the purpose of this amendment.

ശ്രീ. കെ. വേലായുധൻ നായർ: സർ, ഞാൻ ഈ ഭേദഗതിയെ അനുകൂലിക്കുന്നു. ഇതു സ്വീകരിച്ചില്ലെങ്കിൽ ഒരു അപകടം ഉണ്ടാകാൻ ഇടയുണ്ട്. മുപ്പതു ദിവസത്തിനകം ആക്ഷേപം ബോധിപ്പിക്കണമെന്നുവെച്ചാൽ ചിലപ്പോൾ aggrieved party ക്കു മറ്റേതെങ്കിലും ന്യായമായ കാരണവശാൽ ഒരുപക്ഷേ ആ ദിവസത്തിനകം ആക്ഷേപം ബോധിപ്പിക്കാൻ സൗകര്യപ്പെടാതെ മുപ്പത്തിരണ്ടാമത്തെ ദിവസം ആക്ഷേപം ബോധിപ്പിക്കുകയാണെങ്കിൽ ന്യായമായ കാരണങ്ങളാലാണ് അങ്ങിനെ ആക്ഷേപം ബോധിപ്പിക്കുവാൻ സാധ്യമാകാത്തതെന്നു authority ക്കു ബോദ്ധ്യമുണ്ടായിരുന്നാൽതന്നെയും അതായതു അ authority ക്കു അനേക്ഷിക്കണം എന്നു തോന്നിയാൽതന്നെയും ഈ രൂൾ വച്ചുകൊണ്ട് അങ്ങനെ അനേക്ഷിക്കാൻ സാധിക്കുകയില്ല. അതുകൊണ്ട് ഈ ഭേദഗതി സ്വീകരിക്കേണ്ടതാണെന്നാണ് എന്റെ അഭിപ്രായം.

LIBRARY ARCHIVES Kerala Legislative Assembly

Sri. K. P. Nilakanta Pillai: The amendment was tabled anticipating the acceptance of the previous amendment. Now that the other amendment has been lost if the House wants this amendment it may accept it.

ശ്രീ. എ. ജെ. ജോൺ: ഈ ഭേഗതി ഇല്ലാതെതന്നെ ന്യായമായ കാരണങ്ങളാലാണ് അങ്ങനെ വന്നതെന്ന് അതാഠിട്ടിക്കു് ബോദ്ധ്യം വരികയാണെങ്കിൽ അതിനെക്കുറിച്ചു് അനേഷിക്കുന്നതിനു് ഇതു തടസ്സമായി നിൽക്കുകയില്ല. അതുകൊണ്ടു് ഈ ഭേഗതി ആവശ്യമില്ലാത്തതാണു്, ഞാൻ ഭേഗതിയെ എതുക്കുന്നു.

The amendment was put and lost.

The question that clause 4 stand part of the Bill was put and carried.

Clause 4 was added to the Bill.

New Clauses

Sri. K. P. Nilakanta Pillai: The amendments that I propose are printed; therefore, there cannot be any mistake in understanding the purport of these amendments. These are the amendments:—

"Add the following as clauses 5 and 6, and renumber the remaining clauses:

5. (i) Appeals from the original decisions or orders passed by the Tahsildar shall lie to the Collector of the respective District;

(ii) Appeals shall be presented by interested parties within one month from the date of the decision or order appealed against or from the date of the service of notice thereof as the case may be;

(iii) The Appellate authority may admit an appeal after the expiry of the period of limitation provided he is satisfied that the appellant had good and sufficient cause for not preferring the appeal within such period. In such cases the fact of having excused the delay shall be recorded;

(iv) The appellate authority may confirm, vary or cancel the decision or order appealed against;

6. It shall be open to the Board of Revenue, if sufficient ground exists, to revise, cancel or alter on its own motion or otherwise the original decision of the Tahsildar or the appellate decision of the Collector within two months after the period prescribed for appeal has elapsed or after the appeal, if preferred has been disposed of. No such order shall be passed without the party that may be affected by the order being given an opportunity to be heard."

It is very clear, Sir, because the stock argument may come, namely, there is the rule making authority in the Act. Of course, there are in the existing rules some provisions for preferring appeals and revision of original orders. What is proposed by the mover of this amendment is to embody in the Act itself all these things. They might also say that in the existing rules, we are going to adopt all these things hereafter, if this Bill is passed. All right. I can trust them, if they are opposed. If they do not oppose, this may come as a part of the Act. It is a very substantial provision. We have moved several amendments saying that Government alone should be given this power to assign land. Whatever may be the spirit in which those amendments were understood and opposed by the Treasury Benches, our purpose is this. Not only the Government but any authority which Government hereafter may appoint and invest with the powers of assigning land, may assign land. Even a Tahsildar may be one of those authorities. We know how things are taking place in revenue, land and puduval matters. Even in putting the

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Recovery Regulation into action in the State of Travancore, what amount of corruption and malpractice is going on is known. Of course, this may be provided in the rules. I can understand that. Therefore, when we stated that Government alone should be invested with the power of assigning land, it was opposed, and now Government propose to give this power to so many persons and authorise them. Under the circumstances, I think it is highly necessary that at least these powers of appeal and revision should be made very clear in the Act itself. With that object, I have tabled these amendments.

ശ്രീ. എ. ജെ. ജോൺ: ഈ ബില്ല് സെലക്ട് കമ്മിറ്റിക്ക് recommit ചെയ്യണമെന്ന പറഞ്ഞുകൊണ്ട് ഇവിടെ ഉന്നയിച്ച വാദങ്ങളിൽ ഇതും ഒന്നായിരുന്നു. രണ്ടാമത്തെ പോയിന്റ് ഞാമത്തെ ക്ലാസിൽ പറഞ്ഞിട്ടുള്ള അപ്പീലിനുള്ള അധികാരത്തെക്കുറിച്ചാണ്. ബഹു. മെമ്പർ ഇപ്പോൾ ഇവിടെ അവതരിപ്പിച്ചിരിക്കുന്ന ഈ സംഗതിയെ സംബന്ധിച്ച് അപ്പീലിനു വേണ്ടതായ എല്ലാ സംഗതികളെ സംബന്ധിച്ചും ഇപ്പോഴത്തെ റൂളിൽ ഉണ്ട്. ബഹു. മെമ്പർ പറഞ്ഞത് മുപ്പതു ദിവസത്തിനകം അപ്പീൽ കൊടുക്കണമെന്നാണ്. എന്നാൽ റൂളിൽ പറഞ്ഞിരിക്കുന്നത് അറുപതു ദിവസത്തിനകം വേണമെന്നാണ്. അതുകൊണ്ട് ഈ ഭേദഗതി സ്വീകരിക്കണമെങ്കിൽ പല കഴപ്പങ്ങൾക്കും ഇടവരുന്നതാണ്. ആ റൂള് ഞാൻ വായിക്കാം.

"54 (i) Appeals from the original decisions passed by the Tahsildar under these rules shall lie to the Assistant Peishkar or the Division Peishkar, as the case may be, from those passed by the Assistant Peishkar or the Division Peishkar to the Land Revenue and Income-tax Commissioner, and from those passed by the Land Revenue and Income-tax Commissioner to the Government. All appeals shall be presented within 60 days from the date of the decision appealed against or the date of the communication thereof, as the case may be. In computing this period, the day on which the decision appealed against was pronounced or communicated and the time required for obtaining a copy of it shall be excluded. On all copies issued, shall be entered the date of the application for copy, the date fixed for receiving the copy, the date on which the copy was ready for delivery and the date of delivery of copy.

(ii) Any person interested in the matter may appeal.

(iii) No appeal shall be admitted unless accompanied by a certified copy of the decision or order appealed against.

(iv) An appellate authority may admit an appeal after the expiry of the period of limitation, provided he is satisfied that the appellant had good and sufficient cause for not presenting the appeal within such period. The fact of condonation of delay together with the reasons therefore shall be noted in the appellate order.

(v) The appellate authority may confirm, vary or cancel the decision or order appealed against.

(vi) The decision of the authority making the assignment if no appeal is presented, or of authority to whom the appeal lie, if an appeal is presented, is final, and no second appeal shall be admitted."

അതിനാൽ ഇപ്പോൾ ഇവിടെ അവതരിപ്പിച്ച ഭേദഗതികൊണ്ട് വലിയ വിശേഷമൊന്നും ഇല്ല. ചിലപ്പോൾ കാപ്പി കിട്ടുന്നതിന് രണ്ടോ മൂന്നോ മാസം വേണ്ടിവന്നേക്കും. അപ്പോൾ ഈ ഭേദഗതി സ്വീകരിച്ചാൽ അപ്പീൽ കൊടുക്കാൻ സാധിക്കാതെ വരും. അതുകൊണ്ട് ഞാൻ ഭേദഗതിയെ എതിർക്കുന്നു.

The amendment was put and lost.

LIBRARY ARCHIVES Kerala Legislative Assembly

Clause 5

Sri. A. Thanu Pillai: Sir, may I make a suggestion with regard to the amendment of Mr. Pachu Pillai (amendment No. 24). That amendment invests this House with the power to frame rules. For this identical purpose there are substantial amendments which comes later on. It would be better that this Clause 5 is disposed of after those amendments are dealt with. These amendments come under Clause 7. So, consideration of Clause 5 may be held in abeyance until Clause 7 is disposed of.

Sri. A. J. John: I have no objection.

Mr. Speaker: That can be done. We shall proceed to clause 7 and after completing clause 7 may go back to clause 5.

Clause 7

Sri. Kalathil Velayudhan Nair: May I suggest that amendment No, 39 is taken up first?

Mr. Speaker : That may be moved first.

Sri. A. Thanu Pillai: Sir, I move:

"In clause 7, substitute the following for Sub-clause (2):—

"Such rules shall be placed before the Legislative Assembly and on their being considered and passed with or without amendments by the Assembly they shall have the force of law."

Sub-clause (1) is to the effect that Government may make rules. My amendment is that such rules shall be placed before the Legislative Assembly and on their being considered and passed with or without amendments by the Assembly they shall have the force of law. So the difference between the provision as it now stands in the Bill and the provision as it would be if my amendment is accepted is this: "Government may make rules" that stands as it is. According to the provision in the Bill as settled by the Select Committee such rules shall be published in the Gazette and thereupon they shall have the force of law. My submission to this House is that this House should have the power to modify, alter, or pass in the same form the rules framed by Government. Sir, the reason is quite simple. During the consideration of this Bill yesterday and today we have all realised how much importance has to be attached to the provisions of this piece of legislation. Now this measure relates to the assignment of Government property of varying values. It may be a plot of land worth a few rupees or it may be a plot of land worth lakhs of rupees. Various amendments were moved regarding the assignments of lands whether it should be transfer of land or the leasing out of land. There was an amendment to the effect that assignment should mean only transfer of land on lease. Now this House may decide that assignment should come under one particular category. We must say that assignment shall be only by way of lease for a particular purpose. These provisions can be made in accordance with the wishes of this House provided the rule making power is vested with this House. Various other amendments were also made about the authority. If the rule making power is fully and finally vested with the Government, everything will be done by the Government themselves but there are very many matters which this House should like to deal with considering the importance of the measure. I don't want to go into the details. The position is quite clear. In the Land Improvement Bill provision has been made by the Minister in charge that rules should be placed before this House and disposed of by this House. If in that case such a thing can be allowed, I submit, Sir, that as this is a far more important measure dealing with the rights and assets of Government often of very great value, the same provision should be made in this

LIBRARY ARCHIVES Kerala Legislative Assembly

Bill also. I fail to understand why, in this case a different course is adopted. We must, in future view this rule making power in a different point of view. Formerly, it was a Maharaja's rule and the Government were all powerful. It was only certain things that they conceded to the people and were dealt with in the so-called Legislature, and everything that the Legislature did was practically recommendative. Under that rule, all things intended to be done by the Ruler were done by the Government and legal sanction was given in a broad way and Government themselves were allowed to frame rules which were often of great consequence. Now so far as important matters are concerned they should be allowed to be dealt with by this House. Matters such as prescribing the manner in which assignment of land may be made whether by public auction or otherwise, providing for the publication of Notifications and service of notices, prescribing the procedure to be followed in enquiry regarding claims preferred, rates at which lands may be assigned, all these have to be dealt with by this House. There was discussion about the extent of land to be assigned, and about the rates at which they are to be assigned. I am told that lands are now being assigned to various persons on very low rates. Why should public property be thus allowed to be enjoyed by private individuals to the detriment of the public? We may fix reasonable rates. Considering all this I think it would be only fair if my amendment is accepted. Regarding the question of time for considering these rules, let us provide that it will be dealt with by this House and this House will finally pass it. There is no question whether it should be disposed of within a specified time. This House, in any case, will have to decide on such important matters. With these words I place this amendment before the House.

ശ്രീ കളത്തിൽ വേലായുധൻ നായർ: സർ, ഈ ഭേദഗതിയെ ഞാൻ അനുകൂലിക്കുന്നു. സാധാരണയായി ഒരു നിയമനത്തിനു് ചട്ടങ്ങൾ ഉണ്ടാക്കുന്നതിനുള്ള അധികാരം ഗവൺമെണ്ടിനു നൽകിവരുന്നുണ്ടു്. എന്നാൽ ഇപ്പോഴത്തെ ഈ ചട്ടത്തിൽ പറഞ്ഞിരിക്കുന്ന ഏഴാംവകുപ്പനുസരിച്ചു് ഗവൺമെണ്ടിനു് അധികാരം കൊടുക്കുന്നതായാൽ ഗവൺമെണ്ടിനു ഇഷ്ടംപോലെ പ്രവർത്തിക്കുന്നതിനു സൗകര്യമാകത്തക്കവിധത്തിലുള്ള നിയമനിർമ്മാണം ചെയ്യുവാൻ കഴിയും. ഈ നിയമം ഈ രൂപകൽപ്പനകൊണ്ടു പൂർണ്ണമായ ഒരു നിയമമാക്കുകയില്ല. ഇപ്പോഴത്തെ ഈ ലാൻറ് അസയിൻമെൻറ് ആക്ടു നിയമപരമായി വീക്ഷിക്കുന്ന പക്ഷം ആക്ടിൽത്തന്നെ ഈ ചട്ടങ്ങൾകൂടി ഉൾപ്പെടുത്തിയിട്ടുണ്ടെന്നു കാണാം. ഇന്നലെ ഈ സഭയിൽത്തന്നെ ഇതുപോലെ വസ്തുക്കൾ സ്ഥിരമായിട്ടു കൊടുക്കുന്നതിനെ സംബന്ധിച്ചുള്ള ഭേദഗതികൾ ഹാജരാക്കിയപ്പോൾ ഏഴുകൊല്ലത്തിൽ കൂടുതൽ കാലത്തേക്കു് കൊടുക്കാൻ പാടില്ലായെന്നും പൊതുപാട്ടമായോ കുത്തകപ്പാട്ടമായോ കൊടുക്കാനെ പാടുള്ളൂ എന്നും ബഹുമാനപ്പെട്ട മന്ത്രി പറയുകയുണ്ടായി. അതുകൂടാതെ ഈ ബില്ല സംബന്ധിച്ചു് ശ്രീ. കെ. പി. നീലകണ്ഠപ്പിള്ള ഒരു ഭേദഗതി അവതരിപ്പിച്ചപ്പോൾ രൂപകൽപ്പനയിൽ അപ്പീലിനെ സംബന്ധിച്ചു് വ്യവസ്ഥകൾ ചെയ്തിട്ടില്ലായെന്ന പ്രസ്താവിക്കയുണ്ടായി. ഒരു കേസു സംബന്ധിച്ചു് അപ്പീൽ വേണമോ വേണ്ടയോ എന്നു തീരുമാനിക്കാൻ ഉള്ള അധികാരം ഗവൺമെണ്ടിനാണെന്നാണു് ഇതിൽകാണുന്നതു്. എതെങ്കിലും അപ്പീൽ കൊടുക്കുന്നതിനു് ഗവൺമെണ്ടിനധികാരം ഉണ്ടായിരിക്കേണ്ടതാണു്. എന്നാൽ ഒരു അപ്പീൽ ബോധിപ്പിക്കുന്നതിനു് നിയമംമൂലം ഒരു കക്ഷിക്കും അവകാശമുണ്ടായിരിക്കേണ്ടതാണു്. അപ്പോൾ ആ അധികാരം കൊടുക്കണോ വേണ്ടയോ എന്നു തീരുമാനിക്കുന്നതിനുള്ള നിയമം ചട്ടങ്ങൾകൊണ്ടു രൂപീകരിക്കേണ്ടതായിട്ടാണു് കാണുന്നതു്. ഈ ഏഴാംവകുപ്പു് പരിശോധിച്ചാൽ ഈ ചട്ടങ്ങൾ ഉണ്ടാക്കുന്നതിനുള്ള അധികാരം നിയമസഭയ്ക്കു് നൽകാതെ ഗവൺമെണ്ടിനു നൽ

LIBRARY ARCHIVES Kerala Legislative Assembly

[Sri. Kalathil Velayudhan Nair]

കുകയെന്നുള്ളതായിരിക്കും ഇതിന്റെ അർത്ഥം. ഗവൺമെണ്ടിന്റെ കൈവശമുള്ള വസ്തുക്കൾ പതിച്ചുകൊടുക്കുന്നതിനുള്ള അവകാശം ഈ ബില്ലനുസരിച്ച് ഗവൺമെണ്ടിനു നഷ്ടപ്പെടുകയാണ്. ഗവൺമെണ്ടിനു നഷ്ടപ്പെടുന്ന ആ അധികാരത്തെ ഗവൺമെണ്ടിന്റെ ഉദ്യോഗസ്ഥന്മാർക്ക് നഷ്ടപ്പെടുന്നതിനുള്ള വ്യവസ്ഥകളും ഇതിൽ അടങ്ങിയിട്ടുണ്ട്. ഒരു പേഷ്ക്കാർക്കോ തഹശിൽദാർക്കോ ഇത്ര ഇത്ര സ്ഥലം പതിച്ചുകൊടുക്കുന്നതിനു് അധികാരമുണ്ടായിരിക്കുമെന്നു് ഈ ബില്ലിൽ പറയുന്നുണ്ട്. ഇത്ര വിപുലമായ അധികാരങ്ങൾ ഈ ബില്ലനുസരിച്ച് ഗവൺമെണ്ടിനു കിട്ടുന്നസ്ഥിതിക്കു് ഇതനുസരിച്ചുള്ള ചട്ടങ്ങൾ നിയമസഭയുടെ അംഗീകാരത്തോടുകൂടിയല്ലാതെ നടപ്പിൽവരുത്തുന്നതു ശരിയായിരിക്കുകയില്ല. ആ ഉദ്ദേശത്തോടുകൂടിയാണ് ചട്ടങ്ങളെ സംബന്ധിച്ചിടത്തോളം ലാൻറ് ഇംപ്രൂവ്മെൻറ് ബില്ലിലും അങ്ങിനെ വ്യവസ്ഥചെയ്തിട്ടുള്ളതു് എന്നു തോന്നുന്നു. അതുകൊണ്ടു് ഈ ഭേദഗതി സ്വീകരിക്കുന്നതിൽ യാതൊരു വിരോധവുമുണ്ടാകുമെന്നില്ലെന്നാണ് എനിക്കു തോന്നുന്നതു്.

Sri. D. Gnanasigamoni : I have sent in a similar amendment which I intend to move now. But there is a slight difference. In moving this amendment, I don't want to cover over again the field covered by my Hon'ble friend Mr. Thanu Pillai. So far as this Act is concerned, it is the rules that really matter, and the existing rules run into nearly hundred pages of closely printed matter so that it is absolutely necessary that all the rules framed by Government should be placed before this House. I moved an amendment on the same lines in respect of the Motor Vehicles Act. This amendment which I move now is this:

> "Add as sub-clause (3) to clause 7, the following:
>
> 'All rules made under this Act shall be laid for not less than seven days before the Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid.' "

This has been accepted in respect of another Act. So, without much comment I move this for the acceptance of the House.

ശ്രീ. എ. ജെ. ജോൺ: സർ, ഈ ഭേദഗതികളിൽ ശ്രീ. എ. തണുപിള്ളയുടെ ഭേദഗതിയെ ഞാൻ എതിർക്കുകയും ശ്രീ. ഡി. ജ്ഞാനശിഖാമണിയുടെ ഭേദഗതിയോടുകൂടി "without prejudice to the validity of anything previously done thereunder" എന്നുകൂടി ചേർത്തു് സ്വീകരിക്കുന്നതിൽ വിരോധമില്ലെന്നു് അറിയിക്കുകയും ചെയ്യുകൊള്ളുന്നു. അതായതു് റൂളുകൾ ഉണ്ടാക്കി ഗസറ്റിൽ പരസ്യംചെയ്യുമ്പോൾതന്നെ അവ ഊജ്ജിതത്തിൽ വരുമെന്നും എന്നാൽ അടുത്തുകൂടുന്ന നിയമസഭയിൽ അതു് അവതരിപ്പിച്ചു് ആവശ്യമുണ്ടെങ്കിൽ ഭേദഗതി വരുത്തുകയോ വരുത്താതിരിക്കുകയോ ചെയ്യാമെന്നും ആണ് ഇതിന്റെ മൂലക്കാം. റൂളനുസരിച്ചു് അതു നിയമസഭ മുമ്പാകെ വയ്ക്കുന്നതിനുമുമ്പു് ഗവൺമെണ്ടു് എന്തെങ്കിലും ചെയ്യുകയാണെങ്കിൽ അതിനു നിയമസാധുതപോരാ ഉണ്ടായിരിക്കണം എന്നുള്ളതാണ് ശ്രീ. ജ്ഞാനശിഖാമണിയുടെ ഭേദഗതിയോടുകൂടി ഇതുകൂടി കൂട്ടിച്ചേർക്കണമെന്നു് ആവശ്യപ്പെട്ടതിന്റെ ഉദ്ദേശം. അല്ലാത്തപക്ഷം നിയമസഭ അംഗീകരിക്കുന്നതിനുമുമ്പു് റൂളുകൾ അനുസരിച്ചു് ഗവൺമെണ്ടു് ചെയ്യുന്ന നടപടികൾക്കൊന്നും നിയമസാധുതപോരാ ഇല്ലെന്നു് വരുന്നതാണ്. ഈ ഭേദഗതിയുംകൂടി ചേർത്തു് അതിങ്ങനെ വായിക്കാം. "All rules made under this Act shall be laid for not less than seven days before the Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the

LIBRARY ARCHIVES Kerala Legislative Assembly

Legislative Assembly may make during the session in which they are so laid but without prejudice to the validity of anything previously done thereunder."

ശ്രീ. കളത്തിൽ വേലായുധൻനായർ: റൂളുകൾ നിയമസഭയിൽവെച്ച് അംഗീകരിക്കുന്നതുവരെ ജനറൽ ക്ലാസസ് ആക്ടിലെ വ്യവസ്ഥകളനുസരിച്ച് ഇതുവരെ പ്രവർത്തിച്ചുപോന്നതുപോലെ മേലിലും ഗവൺമെണ്ടിനു പ്രവർത്തിക്കാമല്ലോ?

ശ്രീ. എ. ജെ. ജോൺ: അതനുസരിച്ചും പ്രവർത്തിക്കാം.

ശ്രീ. കളത്തിൽ വേലായുധൻനായർ: ആ സ്ഥിതിക്ക് ബഹുമാനപ്പെട്ട മന്ത്രി നിർദ്ദേശിക്കുന്ന ഭേദഗതി ഇല്ലെങ്കിലും കുഴപ്പമൊന്നും ഇല്ലല്ലോ?

Sri. D. Gnanasigamoni: No difficulty would arise as contemplated by the Hon'ble Minister as under the General Clauses Act the existing rules will be in force.

ശ്രീ. എ. ജെ. ജോൺ: ഈ ഭേദഗതിക്കുടി വരുത്തിയില്ലെങ്കിൽ ഒരു കുഴപ്പമുണ്ട്. റൂൾ ഗസറ്റിൽ പരസ്യംചെയ്തുകഴിഞ്ഞാൽ അതനുസരിച്ച് ഗവൺമെണ്ടു പ്രവർത്തിക്കണമെന്നു ഒരുപക്ഷേ വാദിച്ചേക്കാം. മുമ്പിരിക്കുന്ന റൂൾ കരടുതന്നെയാണു മേലിലും തുടർന്നുകൊണ്ടുപോകുവാൻ ഗവൺമെണ്ടു ഉദ്ദേശിക്കുന്നതു്. അതിനു വ്യത്യസ്തമായ പുതിയ റൂൾ ഒന്നും ഉണ്ടാക്കണമെന്നു ഉദ്ദേശിച്ചിട്ടില്ല. ആ സ്ഥിതിക്ക് പുതിയ റൂൾ നിയമസഭ അംഗീകരിക്കുന്നതിനുമുമ്പു് നിയമമായി തീർന്നാൽ അതുകൊണ്ടു കുഴപ്പമൊന്നും വരാനില്ല. പഴയ റൂളനുസരിച്ച് ഗവൺമെണ്ടു് തുടർന്നു പ്രവർത്തിച്ചുകൊണ്ടിരുന്നാൽ എങ്ങിനേയോ അതുപോലെതന്നെയായിരിക്കും പുതിയ റൂളനുസരിച്ചും പ്രവർത്തിക്കുന്നതു്.

ശ്രീ. കളത്തിൽ വേലായുധൻനായർ: ആ സ്ഥിതിക്ക് നിയമസഭ അംഗീകരിച്ചു റൂൾകൾക്ക് നിയമസാധുത്വം കിട്ടുകയുള്ളു എന്നു വയ്ക്കുന്നതുകൊണ്ടും യാതൊരു ദോഷവുമില്ലല്ലോ. പഴയ റൂൾതന്നെയാണു മേലിലും തുടരാൻ ഉദ്ദേശിക്കുന്നതെങ്കിൽ ആ റൂൾകൾ നിയമസഭ അംഗീകരിക്കുന്നതുവരെ പഴയ റൂളനുസരിച്ച് പ്രവർത്തിക്കുകയല്ലേ നല്ലതു്? അതിനു സമ്മതിക്കാതെ പുതിയ റൂൾകൾ നിയമസഭ അംഗീകരിക്കുന്നതിനുമുമ്പു് നിയമമാകണമെന്നു നിർബ്ബന്ധം പിടിക്കുന്നതു കാണുമ്പോൾ നിയമസഭയ്ക്കു് അംഗീകരിക്കാൻ സാദ്ധ്യമല്ലാത്ത ഏതോ കാര്യങ്ങൾ ഗവൺമെണ്ടു് ചെയ്യാനുദ്ദേശിക്കുന്നുണ്ടോ എന്നു തോന്നിപ്പോകുന്നു. അതുകൊണ്ടു് പുതിയ റൂൾകൾ നിയമസഭ അംഗീകരിച്ചതിനുശേഷമേ നിയമമാവുകയുള്ളു എന്നു വ്യവസ്ഥചെയ്യണം എന്നാണു് എന്റെ അഭിപ്രായം.

ശ്രീ. എ. ജെ. ജോൺ: ബഹുമാനപ്പെട്ട മെമ്പർക്കു് അങ്ങിനെ ഒരാശങ്ക ഉണ്ടായതിൽ ഞാൻ ഖേദിക്കുന്നു. നിയമസഭയ്ക്കു് അംഗീകരിക്കാൻ സാദ്ധ്യമല്ലാത്ത യാതൊന്നും ചെയ്യണമെന്നു് ഗവൺമെണ്ടിനു ഉദ്ദേശമില്ല. റൂൾകൾ നിയമസഭയിൽ പാസ്സാക്കുന്നതിനുമുമ്പു് തിരുവിതാംകൂറിലെ ഭൂമി മുഴുവൻ ആക്കേണമെങ്കിലും പതിച്ചുകൊടുക്കണമെന്നു് ഗവൺമെണ്ടിനു ആഗ്രഹമില്ല.

ശ്രീ. മന്നത്തു പദ്മനാഭൻ: എന്നാൽ പിന്നെ ഇപ്പോൾ ഇരിക്കുന്ന റൂൾകളനുസരിച്ചു് ഗവൺമെണ്ടിനു് പ്രവർത്തിക്കാമല്ലോ. ജനങ്ങൾക്കു് സംശയം ഉണ്ടാകത്തക്കവണ്ണമുള്ള യാതൊരു അധികാരവും ഗവൺമെണ്ടു് കൈകടത്തു് എടുക്കണമോ എന്നു പറഞ്ഞാൽ അതു് സ്വീകരിക്കുമോ?

LIBRARY ARCHIVES Kerala Legislative Assembly

ശ്രീ. എ. ജെ. ജോൺ: അങ്ങനെ യാതൊരു അധികാരവും ഗവൺമെണ്ടു് കൈകടത്തു് എടുക്കാൻ ഉദ്ദേശിക്കുന്നില്ല. അതുകൊണ്ടു് ഞാൻ ശ്രീ. താണുപിള്ളയുടെ ഭേദഗതിയെ എതുക്കുന്നു. ശ്രീ. ജ്ഞാനശിഖാമണിയുടെ ഭേദഗതി ഞാൻ നിർദ്ദേശിച്ച ഭേദഗതിയോടുകൂടി സ്വീകരിക്കാൻ തയ്യാറാണു്.

ശ്രീ. കളത്തിൽ വേലായുധൻനായർ: ഈ ഭേദഗതിയിൽ ഏഴു ദിവസത്തേയ്ക്കു് കൂട്ടുന്ന നിയമസഭയിൽ വയ്ക്കണമെന്നു് പറഞ്ഞിട്ടുണ്ടു്. അടുത്തുകൂട്ടുന്ന നിയമസഭ നാലുദിവസത്തേയ്ക്കു് ഉണ്ടായിരുന്നുള്ളുവെങ്കിൽ എന്താണു് സ്ഥിതി?

ശ്രീ. എ. ജെ. ജോൺ: ഏഴുദിവസത്തിൽ കൂടുതൽ കൂട്ടുന്ന അടുത്ത നിയമസഭയിൽ അവതരിപ്പിച്ചു് പാസ്സാക്കും.

Mr. Speaker: What about amendment No. 39?

Sri. A. J. John: Amendment No. 39, I oppose. I am prepared to accept Amendment No. 41 with the modification I suggested.

Sri. A. Thanu Pillai: In our Rules there are no provisions relating to a matter of this kind.

Mr. Speaker: I would suggest that the House do adjourn now till 2 p.m. and that in the interval, the Hon'ble members who have moved the amendments and the Hon'ble Minister in Charge would talk over the matter and come to an agreement.

The House rose for lunch at 12-52 p.m. and reassembled at 2 p.m. with Mr. Speaker in the Chair.

Sri. A. J. John: I am prepared to accept amendment No. 41 moved by Mr. Gnanasigamoni without any modification.

ശ്രീമാൻ താണുപിള്ളയുടെ ഭേദഗതി സ്വീകരിക്കുകയാണെങ്കിൽ ചില കുഴപ്പങ്ങളെല്ലാം വന്നേക്കും. ഇതു പാസ്സായി വക്കിംഗിൽ വരുമ്പോൾ ഏതെങ്കിലും പ്രയാസങ്ങൾ വരുകയാണെങ്കിൽ അതു പരിഹരിക്കുന്നതിനു് രൂപം ഉണ്ടാക്കുന്നതിനുള്ള അധികാരം ഗവൺമെണ്ടിനുണ്ടായിരിക്കണം. അങ്ങനെ ഏതെങ്കിലും വേണ്ടിവന്നാൽ ഈ ഭേദഗതി സ്വീകരിക്കുന്നപക്ഷം അതും നിയമസഭയിൽ വച്ചുവെ നിയമപ്രാബല്യം ഉണ്ടാകുകയുള്ളുയെന്നുവരും. അതിനാൽ ഈ ഭേദഗതിയെ ഞാൻ എതിർക്കുന്നു.

Sri. G. P. Nilakanta Pillai: Is there any significance in saying that these rules shall be laid before the Legislative Assembly "for not less than seven days" because in the last portion of the amendment it is stated that these rules shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid. Putting these two together, I don't see any significance for these rules to be lying in state in the Assembly for seven days.

Sri. A. J. John: The only object is to give the members of the Assembly sufficient time to prepare and discuss amendments that they bring forward. If the House thinks fit to take this way, I have no objection. But by retaining it a member of the Assembly may get sufficient time to prepare amendments.

Sri. G. P. Nilakanta Pillai: Sometimes, a session may last for two or three days, then what will be the position?

Sri. A. J. John: The Parliamentary practice is that these rules will have to be placed before the Legislature which will be in session for not less than seven days.

Sri. G. P. Nilakanta Pillai: I am aware of that provision in the Madras Legislature.

LIBRARY ARCHIVES Kerala Legislative Assembly

Sri. A. J. John: In any case, I have no objection to accept the deletion of that.

Sri. D. Gnanasigamoni: In respect of that, it is stated in May's Parliamentary Practice, (page 806) thus:

> "Of the various types of parliamentary check one of the more common is a provision in the enabling statute that the regulations, etc., made thereunder shall be laid before Parliament as soon as may be and, if within forty sitting days a resolution be passed by either House for their annulment, they shall be annulled. If the enabling Act seeks the maximum of parliamentary control, it will probably direct that the document be laid as a draft and that it will have no effect unless approved.

This is the practice so far as the House of Commons is concerned. Then again, at page 807 the difficulty that is raised by Mr. G. P. Nilakanta Pillai is met. This is what is stated there:

> "The method of reckoning the prescribed period of days depends upon the terms of the Act which directs the laying. Earlier statutes do not always require that they be days on which the House is sitting; the usual modern formula stipulates that no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. If the period be interrupted by a prorogation, the document must be laid afresh for the full period in the new Parliament.

This procedure will solve the difficulty raised by Mr. Nilakanta Pillai.

Sri. A. P. Udayabhanu: Can't the Legislature amend the rules even without these provisions?

Sri. A. J. John: That is a highly doubtful position. Only by a motion we can consider the question of amending the rules. Sub-clause (2) says that "all rules made under this Act shall be published in the Gazette and thereupon they shall have the force of law." Afterwards, sub-clause (3), if accepted, would have these rules placed before the Legislative Assembly for its acceptance with or without modification. Till the Assembly passes it those original rules framed by Government will have the force of law.

Sri. K. P. Nilakanta Pillai: Suppose during a session, Mr. Speaker allotted a particular day for the consideration of these rules.....

Mr. Speaker: For the information of the House I shall read out the relevant portion which Mr. Gnanasigamony has referred to already from May's Parliamentary Practice. This is what it states:

"The conditions of the making of Statutory Rules and Orders and the degree of parliamentary control over them will depend in each case upon the particular statute which authorizes them. Sometimes the resultant instrument has no effect, or no continuing effect, until Parliament has expressly approved it; sometimes it can be annulled if, within a time-limit, either House records its disapproval. Thus it may come before the legislature as a mere draft or as an operative document valid until annulled. Sometimes the purport of the instrument is not deemed important enough to need any form of control. Of the various types of parliamentary check one of the more common is a provision in the enabling statute that the regulations, etc., made thereunder shall be laid before Parliament as soon as may be and, if within forty sitting days a resolution be passed by either House for their annulment, they shall be annulled. If the enabling Act seeks the maximum of parliamentary control, it will probably direct that the document be laid as a draft and that it have

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Speaker]

no effect unless approved. If the subject be taxation, the required resolution will be that of the House of Commons only. Thus the Treasury orders altering the rate of purchase tax have no effect until approved by a resolution of the House of Commons and those which impose customs duties, under section 19 of the Import Duties Act, 1932, lapse within twenty-eight days unless similarly approved."

The Hon'ble Minister has informed the House that his position is that the Rules will have the force of law and continue to be valid until annulled or modified.

Sri. A. Thanu Pillai: My amendment may be put to vote.

Amendment No. 39 moved by Sri. A. Thanu Pillai was put and lost.

Amendment No. 41 moved by Sri. D. Gnanasigamoni was put and carried.

The amendment was adopted.

The question that clause 7 as amended, stand part of the Bill was put and carried

Clause 7 as amended was added to the Bill.

Clause 5

Sri. A. K. Patchu Pillai: In view of the fact that amendment No. 41 was passed, I am not moving my amendment.

The question that clause 5 stands part of the Bill was put and carried.

Clause 5 was added to the Bill.

New Clauses

Mr. Speaker: In amendment No. 27 the new clause proposed as clause 7 cannot be moved as it is already covered by clause 3 which says that 'Government land may be assigned by the Government or by any prescribed authority either absolutely or subject to such restrictions, limitations and conditions, etc.'

Sri. A. Thanu Pillai: With regard to that what I have to say is this: Though there may be provisions that rules may be made for certain matters, that does not preclude the House from including such matters in the provisions in the Bill. So far as clause 8 proposed in the amendment is concerned the question of surrender of land to Government is a very important one as the land is the property of Government. In the same manner is clause 9 proposed in the amendment regarding the removal of tree growth. These are all very important questions and as such should find their place in the body of the Bill.

Mr. Speaker: The Hon'ble Member may now move amendment No. 27 relating to clause 6 and confine his remarks to that particular clause.

Sri. A. Thanu Pillai: Sir, with regard to that amendment the wording has not been well chosen. I find what was in my mind is not really well expressed in my wording. The amendment reads thus: Insert the following as clause 6:

"Contiguous areas larger than one hundred acres in extent shall be assigned only to co-operative societies."

What I meant was that no part of any area larger than 100 acres shall be assigned except to co-operative societies. Probably it is not well worded. But if you would allow me, Sir, I would put it like this:

"Parts or the whole of contiguous areas larger than one hundred acres in extent shall be assigned only to co-operative societies." There may be a bit of land of 5 or 7 acres and there is no point in not assigning this to any individual. But if there

LIBRARY ARCHIVES Kerala Legislative Assembly

is a plot of land larger than 100 acres in extent, part of that area or the whole of that area should be assigned only to a co-operative society. That should be assigned only on co-operative basis. This does not require much speech making. Therefore, I move it Sir, for the consideration of the House'

ശ്രീ. കളത്തിൽ വേലായുധൻനായർ: ഞാൻ ഈ ഭേദഗതിയെ അനുകൂലിക്കുന്നു. വസ്തുക്കൾ തുണ്ടംതുണ്ടമായി ഖണ്ഡിച്ചുപോയതുകൊണ്ട് ഇന്നു ശാസ്ത്രീയമായി കൃഷിചെയ്യുന്നതിനു വലിയ അസൗകര്യമുണ്ട്. സർക്കാരിന്റെ കൈവശത്തിൽ വിതരണംചെയ്യുവാനായി ഇന്നു എക്കരോ അതിൽ കവിഞ്ഞോ സ്ഥലംവരികയാണെങ്കിൽ അതു ഒരു വ്യക്തിക്കു പ്രത്യേകമായി കൊടുക്കുവാൻ പാടില്ല എന്നുള്ളതാണു ഈ ഭേദഗതിയിൽ സ്വീകരിച്ചിരിക്കുന്ന തത്വം. ഈ തത്വം സ്വീകരിക്കുന്നതായാൽ കൂട്ടുകൃഷിനടത്തുവാനും ശാസ്ത്രീയമായ കൃഷിനടത്തുവാനും സൗകര്യമുണ്ടാകും.

ശ്രീ. ഏ. ജെ. ജോൺ: ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നു. ഈ തത്വത്തെ അടിസ്ഥാനപ്പെടുത്തി രണ്ടു മൂന്നു ഭേദഗതികൾ ഇതിനുമുൻപു ഇവിടെ അവതരിപ്പിക്കുകയും ഈ സഭ അതിനെ തള്ളിക്കളയുകയും ചെയ്തിട്ടുണ്ട്. പതിച്ചുകൊടുക്കുന്ന ഭൂമിയുടെ പരമാവധി വിസ്തീർണ്ണം ൨൫–ം, ൨൦–ം ഏക്കർ ആയിരിക്കണമെന്നു രണ്ടു ഭേദഗതികൾ ഇവിടെ അവതരിപ്പിക്കപ്പെട്ടു. അതു രണ്ടും സഭ സ്വീകരിച്ചില്ല. കൂടാതെ സ്ഥലങ്ങൾ വില്ലേജ് യൂണിയനും ഗ്രാമപ്പഞ്ചായത്തിനും പതിച്ചുകൊടുക്കണമെന്നുള്ള മറെറാരു ഭേദഗതിയും അവതരിപ്പിക്കുകയുണ്ടായെങ്കിലും അതും തള്ളുകയാണു ചെയ്തതു. ഈ ഭേദഗതിയിൽ അന്തർഭവിച്ചിരിക്കുന്ന തത്വം അംഗീകാരയോഗ്യമാണെന്നു ഞാനും സമ്മതിക്കുന്നു. എന്നാൽ ഉടനടി അതു നടപ്പിൽ വരുത്തുവാൻ വിഷമമുണ്ട്. ചില സന്ദർഭങ്ങളിൽ നൂറിൽകൂടുതൽ ഏക്കർ കൊടുക്കേണ്ടതായ ആവശ്യം നേരിട്ടേം. കായലുകളും മറവും പതിച്ചുകൊടുക്കേണ്ടതായിവരുമ്പോൾ ഈ പരിധി നിർണ്ണയിക്കുന്നതു ആപൽക്കരവും അപ്രായോഗികവുമാകുന്നു. അങ്ങനെ വരുമ്പോൾ ഇപ്പോഴുള്ള സഹകരണസംഘങ്ങൾക്കു ഈ കായലും മറവും പതിച്ചുകൊടുക്കുന്നതു എത്രമാത്രം ആശാസ്യമായിരിക്കുമെന്നും ആലോചിക്കേണ്ടതാണ്. ഇവിടത്തെ സഹകരണസംഘങ്ങളുടെ നില എന്താണെന്നുള്ളതിനെപ്പററി ഏറെക്കുറെ ഈ സഭയ്ക്കു അറിയാവുന്നതാണ്. സമർത്ഥമായ രീതിയിൽ രണ്ടായിരവും മൂന്നായിരവും ഏക്കർ സ്ഥലങ്ങൾവീതം ഏറെറടുത്തു കായൽകൃഷി നടത്തുവാൻ ശക്തിയുള്ള ഒരൊറ സഹകരണസംഘമെങ്കിലും ഈ സംസ്ഥാനത്തുണ്ടെന്നതോന്നുന്നില്ല.

ശ്രീ. കളത്തിൽ വേലായുധൻനായർ: സഹകരണ മന്ത്രിയുടെയും അഭിപ്രായം ഇതുതന്നെയാണോ?

ശ്രീ. ഏ. ജെ. ജോൺ: എന്നാണെന്റെ വിശ്വാസം. അതിനാൽ ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നു.

The amendment was put and lost

Sri. A. Thanu Pillai: Sir, I have to make a submission. No doubt, the rule making power is with the Government subject to the rules being placed before the House. But that does not mean that this House at this stage is precluded from framing whatever provisions the Bill requires. The rules will certainly make all the provisions. Whatever the rules made may be, they must be in consonance with the provisions contained in this Bill. The only point to be considered is whether these new clauses 8 and 9 proposed in my amendment are inconsistent with any of the provisions which we have already passed. My submission is that they are not.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Speaker: The new clause 8 proposed in the amendment has already been ruled out of order. But the new clause 9 proposed in the amendment may be moved.

Sri. A. Thanu Pillai: I move for the addition of a new clause as follows, after clause 5:—

"No Government land shall be assigned except after removing all the tree growth thereon or after realisation of the full value of the trees by public auction of the trees to the assignee".

I wish to say a word on this question. Recently, lands have been assigned in various parts of the State. I myself visited the Pallivasal area where lands to the extent of nearly 10,000 acres have been assigned. I went to that place because I got letters from some people there that trees of all description and all magnitude have not been properly disposed of before assigning such lands and Government are losing a lot of money.

Sri. E. John Philipose: May I correct the Hon'ble member.....

Sri. A. Thanu Pillai: Not at this stage. For my purpose what the minister is going to say is not very important. I found a lot of havoc and destruction there Lands were assigned and in some places paddy cultivation had begun. But the trees had only been partly felled down or partly burned. There were also a number of trees cut down but not yet removed. In fact after complaints received in this behalf some arrangements seem to have been made for cutting down and removal of trees. But I found in certain parts there was some amount of disagreement between the forest officers and the assigning authority leading to all sorts of delay. They could not work together and therefore lands are assigned without marking trees. I am positive that a lot of loss has been incurred by Government on this score. It is a definite fact that no really satisfactory arrangements were made either for the removal of trees or for disposing them in public auction. Now the Hon'ble Minister may make his own statement but so far as I am concerned, I am thoroughly convinced that such steps are not taken to save the interests of Government in regard to the preservation of trees of varying description and magnitude. Many of them were seen burning which I actually saw with my own eyes. Standing trees were set fire to and cutivation was raised without removing the trees cut. Whatever contradiction may come from the Minister, personally I am convinced that steps were not taken to safeguard Government interests. In order that such a thing may not occur again I have provided in my amendment that no Government land will be assigned except after removing all the tree growth thereon or after realisation of the full value of the trees by public auction of the trees or sale of the trees to the assignee. Public interest should not suffer due to any neglect on the part of officers and it is with that object that I have moved my amendment.

Sri. V. O. Markose: Sir, I strongly object to this amendment. I do not know if my friend has fully realised the scheme of the Land Assignment Act and the rules passed thereunder. It is simply a skeleton, empowering Government to do all things. Actually the rules make provisions relating to the assignment of different kinds of land in the State. There are rules specifically for the assignment of land for the purpose of tea, coffee and such other cultivation. There are rules for the assignment of Poromboke lands and there are similar rules for the assignment of all kinds of land at the disposal of Government. There are rules for the disposal of land suitable for cardamom cultivation and there are Kuthagapattom Rules applying to lands given on Kuthagapattom. Therefore there is a comprehensive scheme for assignment of land in this State. What the Statute contains is only a skeleton and principles. It empowers Government to assign lands and enables them to make rules regulating

LIBRARY ARCHIVES Kerala Legislative Assembly

their policy. The object of the amendment can be achieved by making rules therefor and I understand such rules are to be placed before the Legislature. This is a very minor and detailed matter, which if it is allowed to go into the Statute will seriously hamper its working. For example, we cannot say what is exactly meant by the words 'tree growth'. Does it mean that all trees should be cut and the lands levelled and laid bare as if by a bulldozer? This is a minor matter which can be well achieved by making the necessary rules. The Statute should not be marred by introducing this amendment and I therefore oppose this amendment.

Sri. E. John Philipose : May I correct certain misstatements that have been made on the floor of this House? In the first place it is true that 10,000 acres were given but hardly 1,500 acres are timber and wood lands and the rest grass lands. That was the statement I made, and when my Hon'ble friend issued a statement that I had stated that the entire land was grass land, press statement was issued pointing out this difference and the statement was contradicted. I wish to repeat the contradiction.

As far as tree-growth are concerned, he says a lot of trees were burned. Under the present rules all trees below 26 inches could be cut down and burned even by occupants. Now, one who knows anything of cultivation in hill lands knows very well that such trees have to be cut down and burned for the purpose of cultivation of paddy or any other food crops. I may also state that even before any statement was made in this House arrangements were made to see that trees were properly safeguarded. Then, my Hon'ble friend stated about certain conflicts between forest and revenue lands. That of course was essentially due to the fact that this area is what is called "Revenue Forest reserve" and all the tree growth was under the control of the Forest department while the land was under the control of the Revenue department. Government have tried to remove the anomaly as has been stated in this House, and Government have declared all Revenue Forest Reserve where there is timber tree growths as revenue forests. In the second place, I have to deny the charge that no previous arrangements were made to remove the tree growths. Records will show that steps were taken effectively. It is true that before all the tree growth was removed, cultivation was started. That has not caused any loss to the timber as such provided it is removed in time and all arrangements have been made to remove such timber.

Sri. A. Thanu Pillai : May I know whether all the timber has been removed?

Sri. E. John Philipose : My friend very well knows that it is not possible to remove all timber at a stroke.

The amendment was put to vote and lost.

Clause 6

Sri. K. P. Nilakanta Pillai: Sir, I move that Clause 6 be deleted.

This Clause precludes the filing of any civil suit against the decision of the assigning authority except on two specified grounds given in sub-clauses (a) and (b). My submission is that in view of the almost unlimited powers given to Government for assigning lands in any way they would like, there must be some protection to the citizen who is put to some loss by the action of Government. If this Clause is not there, of course under the common law the injured person has a right to file a civil suit to get redress. But the Clause restricts this right to certain limits. It may be stated in reply that the amendment will do away even the limited right proposed in Clause 6. But my answer would be that by the next amendment I have given notice of I provide for the inclusion of these rights in a comprehensive way. The whole

LIBRARY ARCHIVES Kerala Legislative Assembly

[Sri. K. P. Nilakanta Pillai]

scheme of the amendment given notice of by us on this side will have to be understood by the member in charge of the Bill before answering us. As to the reasons for such an amendment, I shall dwell when I move it. With these words, I commend the amendment for the deletion of Clause 6.

Sri. A. J. John: I oppose the amendment.

The amendment was put and lost

Sri. K. P. Nilakanta Pillai: Sir, I move for the addition of sub-clauses to Clause 6, as follows:—

"(*c*) The order is vitiated by fraud, misrepresentation or mistake;

(*d*) The ground of irregularity in procedure and violation of the Rules.

(*e*) The ground that on the merits the assignee is not entitled to the assignment; and

(*f*) The occupier has a right to the value of improvements."

Sir, having lost the previous amendment, I wish to emphasise the fact that even under the existing Rules if a party is dispossessed, he has some remedy in the Civil Court provided he has made some improvements on the land he possessed.

Sri. V. O. Markose: Will not the inclusion of Clause (e) proposed in the amendment be equivalent to allowing the previous amendment for the deletion of Clause 6? By the previous amendment the member wanted to delete Clause 6. In Clause 6 suits on merits are barred. If sub-clause (e) of the proposed amendment is accepted it will nullify Clause 6.

Sri. K. P. Nilakanta Pillai: I may remind the Hon'ble Member what the case law on the subject is. Even under the existing Rules the Courts have decided that an aggrieved party has the right to file a civil suit on the particular ground that the assignee is not entitled to the assignment. It may be that the aggrieved party may be able to satisfy the Court and not a petty Tahsildar that the land is not Government land, which means sub-clause (b) of Clause 6 helps him. He may be able to prove facts as to his possession of land for a number of years, his title or other documents in his favour. Therefore the Civil Courts have granted permission for such suits. The amendments I have given notice of, though we had spent much useful time over it, are not mine, and for which I do not want to take credit.

Mr. Speaker: Does not the Hon'ble Member own the amendments now under discussion?

Sri. K. P. Nilakanta Pillai: I mean, Sir, that I do not claim any originality for it, because what has been embodied in the amendments has been taken after study of the case law on the subject and the decisions of the High Court. It is not my ingenuity that inspired these amendments. They are based on the decisions of the erstwhile Travancore High Court.

Sir, speaking on the merits of the amendment, there are two conditions provided in Clause 6, under which suits will lie, namely, if the order is in breach of any completed agreement to assign, or the land in respect of which such order has been passed is not a Government land. In addition to these two grounds I want to add the following grounds enumerated in sub-clause (c) to (f). The first ground is mentioned in sub-clause (c), which is that the order is vitiated by fraud, misrepresentation or mistake. This is a universally recognised common law based on principles of equity and justice and fairplay. The next ground is one of irregularity in procedure and violation of Rules. As matters stand at present, we are giving absolute authority to Government in the matter of assignment of lands. Even the

LIBRARY ARCHIVES Kerala Legislative Assembly

elementary rights available to a party to sue against the decision of the Tahsildar, is denied by the Member in charge of the Bill. Under this Bill the rule-making powers of Government are also very wide. We are practically giving a blank cheque to them to assign lands in any manner they like and to whomsoever they like and under whatever conditions they may impose or even absolutely. When we are giving such wide powers, what are we as Legislators expected to do. Even though we may not be eminent lawyers, when such powers are sought be assumed by Government, it is our duty to see that proper checks and balances are devised so that the executive may not exercise their powers freely and freakishly. If it is merely an executive matter, I can understand unfettered right being given to them, but when judicial decisions are made, they must be subject to appeal and revision. What is the harm? We are erring on the other side, instead of making a remedy impossible, even if we err on the other side by giving more opportunity to a party especially in view of the fact that we have given absolute power to the Government to do away with the land in any way, there is no harm.

Again, Sir, my amendment is based on a ruling of the erstwhile Travancore High Court.

Sri. V. O. Markose: May I know what ruling he is referring to?

Sri. K. P. Nilakanta Pillai: It may be some T.L.J. I think I may be able to give it now.

Mr. Speaker: Further elucidation does not appear to be necessary.

Sri. K. P. Nilakanta Pillai: Sir, in olden times when I joined the Bar when some junior lawyer was there and he was asked to give rulings he may not be ready with them and the other lawyers would be laughing at him. I can convince my friend in the evening. Apart from that let us not go and search for a ruling. We have got some common sense and we know what the common people want. Why not we place this amendment under that category? The ground of irregularity in procedure and violation of the rules is the next sub-clause. The rules are to be laid down by the Government or by the prescribed authority. If any assignments take place against the rules that they have made, then the aggrieved party must be allowed to appeal to a court. Suppose a party wants to question the correctness of the decision, why not we allow that? If the Government have done a right thing why should they be afraid? If they have acted up to the rules they have laid down, then why should they not allow a party to agitate in a civil court if he has got a grievance.

I have already explained sub clause (e).

Under sub clause (f) the occupier has a right to the value of the improvements. This also has been based on the rulings of the Travancore High Court. We know how manipulations take place, If I give instances somebody may at once fly to my throat. The recent assignment of Theroorkulam and other tanks is an instance. We have condemned the assignments of tanks. More than 20 acres of the Theroorkulam tank were assigned in favour of a Yathanakar. The other day Mr. John was saying that they are assigning only one acre and five acre plots. Here one acre of paddy land will fetch 5,000 to 7,000 rupees so that the 20 acres will cost about 1½ lakhs. Similarly I can cite the assignment of ten acres of forest land in Kumbil. It is a thickly wooded forest and trees have not yet been cut and removed. I know instances after instances. But I am not concerned with these individuals who seek some benefit from this Government. I generally do not take interest in these individual matters. I care a tuppenny. It is not my land, it is reserve land.... as if I am going to live 150 years.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Speaker: The Hon'ble Member may speak on the amendment,

Sri. K. P. Nilakanta Pillai: Yes, Sir. There are people who have got better rights to this land. They have been effecting valuable improvements to the land even though not registered in their names. They expect that under the common law they will get the land for the benefit of themselves. Let us not deny that. Therefore if such an instance is there, should we not provide for a remedy for the man who has made improvements? The occupier must have a right to file a civil suit. These are my amendments and I think that I have made an honest attempt to make the members understand. By adopting these amendments nothing is lost. Therefore I move the amendments.

ശ്രീ. എ. ജെ. ജോൺ: സർ, ബഹുമാനപ്പെട്ട മെമ്പർ ഇവിടെ പറഞ്ഞതു് ഈ അമെൻഡുമെൻറിൽ പ്രസ്താവിച്ചിട്ടുള്ള സി. മുതൽ എഫ് വരെയുള്ള അമെൻഡുമെൻറുകളെല്ലാം ഹൈക്കോടതിയുടെ റൂളിംഗുകളും വിധികളും അടിസ്ഥാനമാക്കി എടുത്തിട്ടുള്ളതാണെന്നാണു്. എന്നാൽ ഇപ്പോൾ എനിക്കു പായുവാനുള്ളതു് ഈ ക്ലാസിൽ അതുപോലെയുള്ള യാതൊരു വ്യവസ്ഥകളും ഇല്ലെന്നാണു്. അതുകൊണ്ടുതന്നെ ഹൈക്കോടതിയിൽനിന്നും അങ്ങനെ ആവശ്യപ്പെടാവുന്നതാണു്.

ശ്രീ. കെ. വേലായുധൻനായർ: ഹൈക്കോടതിയിൽ അങ്ങിനെ വിധികൾ ഉണ്ടായിട്ടില്ലെന്നല്ലേ മി. മാക്കോസവർകൾ പറഞ്ഞതു്.

ശ്രീ. എ. ജെ. ജോൺ: അങ്ങിനെ വിധികൾ ഉണ്ടായിട്ടുണ്ടെങ്കിൽ ഈ ആക്ടിനെസംബന്ധിച്ചു് അത്ര ഒന്നും പറയേണ്ട ആവശ്യമില്ല. ഏതെങ്കിലും ജനാലായിട്ടുള്ള ഒരു ഫ്റാഡ് കാണിച്ചിട്ടുണ്ടെന്നു ബോദ്ധ്യമാകുന്ന പക്ഷം ഏതു കോടതിയും അതേസംബന്ധിച്ചുള്ള അപ്പീൽസ്വീകരിക്കുന്നതുമാണു്.

Sri. Kalathil Velayudhan Nair: One question. If it is specifically prohibited under the Act, will this be avilable in any court of law?

ശ്രീ. എ. ജെ. ജോൺ: ഫ്റാഡുണ്ടെന്നു വരികിൽ അതു് ഏതു കോടതിക്കും അസ്ഥിരപ്പെടുത്താവുന്നതാണു്.

രണ്ടാമതു, ഇതിൽ കിടക്കുന്നതുപോലെ സ്വീകരിക്കാൻ മുക്കുന്നതല്ല. അതു് അൽപ്പം ഒന്നു ഭേദഗതിചെയ്യുകയാണെങ്കിൽ സ്വീകരിക്കുന്നതിനു വിരോധമില്ല.

ശ്രീ. കെ. പി. നീലകണ്ഠപ്പിള്ള: ഭേദഗതി ചെയ്യുന്നതിനു് യാതൊരു വിരോധവുമില്ല.

Sri. V. O. Markose: Where the action complained of is ultra vires of the Act, that need not be provided for at all. The party has a right under common law.

ശ്രീ. എ. ജെ. ജോൺ: അതുതന്നെയാണു് ഞാൻ ആദ്യം പറഞ്ഞതും. ഈ റൂളിനും ആക്ടിനും വിപരീതമായിട്ടാണു് കുത്തകപ്പാട്ടംകൊടുക്കുന്നതെന്നു പറഞ്ഞാൽ അതു ശരിയല്ല.

മൂന്നാമതു മി. മാക്കോസു പറഞ്ഞതുപോലെ അതു സ്വീകരിക്കുകയാണെങ്കിൽ ഈ വ്യവസ്ഥകൾ എല്ലാം അസ്ഥിരപ്പെടുത്തിയതായി വിചാരിക്കേണ്ടിവരും. ഗവൺമെൻറിനെറ വക ഭൂമികളിൽ ആരും പ്രവേശിക്കരുതെന്നാണു് ഈ ഭേദഗതിയിൽനിന്നും അർത്ഥമാകുന്നതു്. അതു അത്രക്കു ശരിയാണോ എന്നു് എനിക്കുതന്നെ സംശയമുണ്ടു്. ഇതേപ്പറ്റി ഹൈക്കോടതിയിൽതന്നെ പരസ്പരവിരുദ്ധമായ തീരുമാനങ്ങൾ ഉണ്ടായിട്ടുണ്ടു്. ഈ വക കാരണങ്ങളാൽ ഞാൻ ഈ ഭേദഗതിയെ എതിർക്കുന്നു.

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The amendment was put and lost.

The question that clause 6 stand part of the Bill was put and carried.

The clause was added to the Bill.

Clauses 8 and 9

The question that clauses 8 and 9 stand part of the Bill was put and carried.

The clauses were added to the Bill.

Clause 1

The question that clause 1 stand part of the Bill was put and carried.

The clause was added to the Bill.

Preamble

The question that the Preamble stand part of the Bill was put and carried.

The Preamble was added to the Bill.

Sri. A. J. John: Sir, the Third Reading may be taken up tomorrow.

The reading of the Bill was accordingly postponed.

The Travancore-Cochin Land Improvement Bill

Minister for Public Works, Communications and Agriculture **(Sri. E. John Philipose):** Sir, I move that the Travancore-Cochin Land Improvement Bill as revised by the Select Committee be taken up for consideration clause by clause.

Sri. N. Kunjuraman: I second it.

The motion was put and carried and the Bill was taken into consideration.

Clause 2

Sri. K. Sivarama Pillai: Sir, I move:

"Delete clause 2 (iii)."

Sub-clause (iii) refers to the definition of the Inquiring Officer. "Inquiring Officer" means an officer appointed as such by the Board. I move for the deletion of this clause on two grounds. First, there is no necessity for such an officer, and secondly, the method of appointment is irregular.

Sir, the Bill would show that we have got a Land Improvement Officer who has to make a scheme and submit it to the Board. The Board, after considering the scheme, has to publish it in the Gazette and call for objections. The Board itself can hear the objections and pass orders on the merits. The aggrieved party can appeal to the Government. So, if there is any irregularity or if there is any defect in the scheme, there are two authorities, the Board and the Government, to hear them. So, to have an Inquiring Officer in between the Board and the Land Improvement Officer is only a step which will mean only an obstruction tactics to get time so that the scheme may not be put into action immediately.

There is also another ground, for my amendment. The Financial Memorandum attached to the Bill would show that a full-time officer has to be appointed on Rs. 275—325. That officer, according to the provisions of the Bill, need not be appointed by the Government or by the Public Service Commission. The officer has to be appointed by a Board consisting of two non-officials and two officials. Such a procedure is seen nowhere. Further, there is absolutely no work for the Inquiring

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